

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

vs.

ROMAN ARAGON, *et al.*,

Defendants.

69cv07941-BB

RIO CHAMA STREAM SYSTEM
Section 3: Canjilon Creek

Subfile No. CHCJ-002-0052

MOTION TO VACATE DEFAULT ORDER
IN SUBFILE CHCJ-002-0052 AND FOR LEAVE
TO FILE NEW CONSENT ORDER

COMES NOW the Plaintiff, State of New Mexico, *ex rel.* State Engineer, and moves the Court to issue its order vacating the Default Order filed August 29, 2002, (Docket No. 6835) with respect to the water rights of Amarante Valdez and Reyes Valdez (“Defendants”) in Subfile CHCJ-002-0052, and granting leave for the State and Defendants to file a new Consent Order concerning the Defendants’ right to use the public waters of the Rio Chama Stream System. As grounds therefore the Plaintiff states:

1. On August 29, 2002, the Court entered a Default Order (Docket No. 6835) adjudicating the water rights of numerous defendants including the water rights of Amarante Valdez and Reyes Valdez in Subfile CHCJ-002-0052. Since that time, a review of the mapping of the irrigated lands and the description of the water rights in this subfile found that the lands of the Defendants irrigated by the Otra Vanda and Valdez Ditches were not correctly described. The Default Order described these lands as being irrigated solely by the Otra Vanda Ditch, when in fact a small portion of the lands are under the Valdez Ditch. The Default Order did not describe any lands

irrigated by the Valdez Ditch. The State has discussed this problem with the Defendants, and the State has prepared a new Consent Order to correct this error which has been signed and approved by the Defendants. The total amount of irrigated acreage (12.5 acres) is unchanged.

WHEREFORE, the Plaintiff State of New Mexico requests the Court to enter its order vacating the Default Order filed August 29, 2002, (Docket No. 6835) with respect to the water rights of Defendants Amarante Valdez and Reyes Valdez in Subfile CHCJ-002-0052 and granting leave for the State and Defendants to file a new Consent Order concerning the Defendants' right to use the public waters of the Rio Chama Stream System.

Respectfully submitted,

/s/ Ed Newville

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 5th day of April 2010, I filed the foregoing electronically through the CM/ECF system which caused the parties on the electronic service list, as more fully set forth in the Notice of Electronic Filing, to be served via electronic mail, and served the following non-CM-ECF participants in the manner indicated:

via first class mail, postage prepaid addressed as follows:

Amarante Valdez
Reyes Valdez
P.O. Box 584
Canjilon, NM 87515

/s/ Ed Newville

EDWARD G. NEWVILLE